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Book Reviews

A TREATISE ON THE MODERN LAW OF EVIDENCE. By Chas. F. Chamberlayne, edited by H. C. Joyce. Matthew Bender & Co., 109 State St., Albany, N. Y. 1916. pp. xvi, 1215.

This volume supplies an omission in the monumental work of Chamberlayne on Evidence by the insertion of a table of cases for the entire five volumes. It also completes for the profession the treatise on Evidence by the inclusion of the topics not covered in the four volumes: documents, public and private, parol evidence, best evidence and witnesses. It thus rounds out a complete treatise on the subject. The topics in the fifth volume are not treated with the fullness and analysis which characterized the text of Chamberlayne but contain a fair summary of the present state of the law with some sound comment on its policy. The most prominent feature is the copiousness of citations which has crowded the text often to one or two lines on the top of the page. The industrious seeker for a case in point in his own jurisdiction is well supplied. He cannot afford to ignore this volume, which often classifies the precedents in very convenient fashion. The decisions in evidence, however, come too fast for any single compiler to catch them all. For example, of twelve interesting cases on the parol evidence rule in California in the last few years not one is cited and only one of the important cases bearing on the impeachment of one's own witness by inconsistent statements.

A court that has to decide on its power to order inspection of the plaintiff's body in a personal injury case is confronted with a difficult question: If the power is denied the court is accused of indulging in a fallacious sentimentality; if the power is approved the court is charged with rendering a railroad decision. Whether or not the Supreme Court of the United States was right in denying the power in *Union Pacific Ry. Co. v. Botsford* (141 U. S. 250) the responsibility should not be placed, as it is by the author (§ 3597), on Mr. Justice Holmes for an opinion by Mr. Justice Gray delivered ten years before the former became a member of the Supreme Court.

A. M. K.

A SKETCH OF ENGLISH LEGAL HISTORY. By Frederic W. Maitland and Francis C. Montague. G. P. Putnam's Sons, 2 West 45th St., New York. 1915. pp. x, 229. \$1.50.

Professor Colby has done a service to American readers in reprinting from Traill's *Social England* the chapters on the earlier history of English law by Maitland, and those by Professor Montague on its modern history. Collateral readings suggested at the

end of each chapter add to the value of the reprint. For the purpose of the general reader this little book is perhaps better than the more elaborate history by Professor Edward Jenks, though the student desiring a more complete treatment of the subject will continue to resort to the latter work.

Maitland's part of this book, like everything he ever wrote, is admirable. He is the Goldsmith of legal writers; he touched nothing which he did not adorn. How "Equity saved the common law," how "the Court of Star Chamber saved the Constitution," how English law reconciled "permanence with progress," is told in these pages as no one except Maitland could tell the story.

The portion of the book by Professor Montague dealing with the development of the law from the reign of Charles I onward seems to be written under the consciousness of the limitations of space imposed upon the writer by the nature of the contribution. If a criticism were to be made, it would be that the author follows too closely the statute book. No attempt is made to picture modern law in its connection with the social, economic and intellectual forces of the period. A history of modern English law without reference to Bentham or Mansfield, Hardwicke or Eldon is like the play of Hamlet with Hamlet left out. A brief history of our law which shall take cognizance of dominant personalities and ideas is a book to be desired.

O. K. M.

MODERN AMERICAN LAW. A COMMENTARY ON THE FUNDAMENTAL PRINCIPLES OF AMERICAN LAW AND PROCEDURE, ACCOMPANIED BY LEADING ILLUSTRATIVE CASES. Prepared under the editorial supervision of Eugene Allen Gilmore, A. B., LL. D. Blackstone Institute, 20 West Jackson Boulevard, Chicago. 1915. Vol. XII, pp. xxxiii, 910; vol. XIII, pp. xxix, 797; vol. XIV, pp. xxvi, 819; vol. XV, pp. xxxiv, 825, completing the set of fifteen volumes. \$60.00 per set.

This series, prepared for the Blackstone Institute, the first ten volumes of which were reviewed in 3 California Law Review 353, has now been completed by the publication of the remaining five volumes. The high typographical standard is maintained, and these five volumes will probably be of greater interest to members of the bar, taking up as they do subjects less familiar. Conflict of Laws is treated in a scholarly article of one hundred twelve pages by Professor George L. Clark of the University of Missouri. The articles on Patents, Copyright, Trade Marks and Unfair Competition give the general principles unembarrassed by the encyclopedic necessity of covering all the details and citing every authority. They should prove useful to the lawyer desiring a foundation of principle in working up a case in any one of these important practical subjects.

One of the most interesting volumes is the last, an edition of